

Panaji, 14th June, 2007 (Jyaistha 24, 1929)

SERIES II No. 11



OFFICIAL GAZETTE

GOVERNMENT OF GOA

Note:- There are Twelve Extraordinary issues to the Official Gazette, Series II, No. 10 dated 7-6-2007 as follows:-

- 1) Extraordinary dated 7-6-2007 from pages 449 to 458 regarding Notification from Department of Elections (Office of the Chief Electoral Officer).
- 2) Extraordinary (No. 2) dated 7-6-2007 from pages 459 to 460 regarding Notification from Department of Elections (Office of the Chief Electoral Officer).
- 3) Extraordinary (No. 3) dated 8-6-2007 from pages 461 to 462 regarding Order from Raj Bhavan.
- 4) Extraordinary (No. 4) dated 8-6-2007 from pages 463 to 464 regarding Notification from Department of General Administration.
- 5) Extraordinary (No. 5) dated 8-6-2007 from pages 465 to 466 regarding Notification from Department of General Administration.
- 6) Extraordinary (No. 6) dated 8-6-2007 from pages 467 to 468 regarding Notification from Department of General Administration.
- 7) Extraordinary (No. 7) dated 11-6-2007 from pages 469 to 470 regarding Order from Department of Science, Technology & Environment.
- 8) Extraordinary (No. 8) dated 11-6-2007 from pages 471 to 472 regarding Notification from Goa Legislature Secretariat.
- 9) Extraordinary (No. 9) dated 11-6-2007 from pages 473 to 474 regarding Notification from Department of Finance (Revenue & Control Division).
- 10) Extraordinary (No. 10) dated 12-6-2007 from pages 475 to 476 regarding Notification from Department of Revenue.
- 11) Extraordinary (No. 11) dated 12-6-2007 from pages 477 to 478 regarding Notification from Goa Legislature Secretariat.
- 12) Extraordinary (No. 12) dated 12-6-2007 from pages 479 to 480 regarding Notification from Goa Legislature Secretariat.

GOVERNMENT OF GOA

Department of Co-operation

Office of the Asstt. Registrar of Co-operative Societies

No. LOD/DEWECS/CR/ARCZ/234

- Read: 1. Interim order No. 10-57-80/ARCS/CZ dated 7-3-1983 appointing Shri A. V. Chikkodi, Asstt. Registrar of Co-op. Societies (Dairy) Ponda as the Liquidator or Central Transport Tourist Service Co-op. Society Ltd.
2. Final order No. 10-57-80/ARCS/CZ dated 27-4-1983 confirm Shri A. V. Chikkodi, Asstt. Registrar of Co-op. Societies (Dairy) Ponda as the Liquidator or Central Transport Tourist Service Co-op. Society Ltd., Ponda-Goa.
3. Order No. 10-57-80/ARCS/CZ dated 23-6-1995 appointing Shri Vikas Raikar, Sr. Inspector/ Auditor of Co-op. Societies (Dairy) Ponda as Liquidator of Central Transport Tourist Service Co-op. Society Ltd., Ponda-Goa.
4. Order No. 10-57-80/ARCS/CZ dated 9-10-1996 appointing Shri N. K. P. Tendulkar, Jr. Auditor Co-op. Societies, Central Zone, as a Liquidator or Central Transport Tourist Service Co-op. Society Ltd.

Whereas the Central Transport Tourist Services Co-op. Society Ltd., Ponda-Goa was registered under code symbol No. GEN(b)-7/Goa dated 5-5-1973 as a transport society with the main object of promoting the economic interest of its members and meeting demand of Tourist and Transporters.

And whereas, over a period of time, due to mismanagement in the working of the society, this office had passed an interim order of liquidation dated 7-3-1983, under Section 102(1)(a)(iv) of the Maharashtra Co-operative Societies Act, 1960 as made applicable to the State of Goa read with Rule 84, of the Co-op. Societies Rules, 1962 for winding up of the affairs of the society, thereby calling upon the society as to why its affairs should not be wound up.

And whereas, this office by order dated 27-4-1983 passed under Section 102(2) of the said Act, confirmed the interim order dated 7-3-1983 by appointing Shri A. V. Chikkodi, the then Asstt. Registrar of Co-op. Societies (Dairy) Ponda as its liquidator.

And whereas, in partial modification of the above referred order dated 27-4-1983, the liquidator by name Shri Vilas Raikar and Shri N. K. P. Tendulkar, respectively, were appointed from time to time.

And whereas, the last named, liquidator has attended the proceedings by showing in detail as to how the liquidation work was attended by him and surplus fund of Rupees 75182.43 left with him after completing the final Audit etc.

Hence in view of the above I pass the following order:

ORDER

In exercise of power vested in me under sub-section 2, of Section 109 of the Maharashtra Co-operative Societies Act, 1960 as made applicable to the State of Goa, I hereby terminate the liquidation proceedings of Central Transport and Tourist Service Co-op. Society Ltd., Ponda-Goa with retrospective effect i.e. from 8-3-1990 and further as per sub-section 3 of aforesaid section, direct the liquidator, Shri N. K. P. Tendulkar to convene the Final General Body Meeting of the members of the society for recording the final report on or before 30-6-2007 positively.

P. M. Naik, Asstt. Registrar of Co-op. Societies (Central Zone).

Panaji, 31st May, 2007.



Department of Education, Art & Culture

Directorate of Technical Education

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Corrigendum

No. 16/67/99/DTE/VPJ/PF.III/522

Read: Order No. 16/67/99/DTE/VPJ/PF III/414 dated 23rd May, 2007.

In the above mentioned order, Ref. (i) may be corrected to read as "(i) Order No. 16/67/99-DTE/VPJ/PF/248 dated 5-5-2005" instead of "(i) Order No. 16/67/99-DTE/VRJ/PF/248 dated 5-5-2006" and in para 2 & 3 of the above referred order the date of period of absence may be corrected to read as "5-5-2005 to 10-9-2006" instead of "5-5-2006 to 10-9-2006".

By order and in the name of the Governor of Goa.

Uddipta Ray, Secretary (Education).

Porvorim, 4th June, 2007.

Department of Labour

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Notification

No. 28/18/2007-LAB/448

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa on 18-4-2007 in reference No. ITLC/2/51/99-04 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Hanumant T. Toraskar, Under Secretary (Labour).

Porvorim, 10th May, 2007.

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IN THE INDUSTRIAL TRIBUNAL AND

LABOUR COURT-I

GOVERNMENT OF GOA, AT PANAJI

(Before Shri Dilip K. Gaikwad, Presiding Officer)

Case No. LCC/24/2001

Shri Anand Gaonkar,
H. No. 73, Dharse,
Sancordem, Goa.

... Workman/Party I

V/s

M/s. Kadamba Transport Corporation Ltd.,
Eastwing Bus Terminus,
Panaji, Goa.

... Employer/Party II

Workman/Party I - Represented by Adv. Shri A. Kundaikar.

Employer/Party II - Represented by Shri T. K. Pawse,
Personal Manager.

Panaji, dated: 18-4-2007.

JUDGMENT

(Delivered on this 18th day of April, 2007)

This is an application instituted under Section 33-C(2) of the Industrial Disputes Act, 1947 (in short the said Act of 1947).

1. The facts giving rise to the present application, stated in brief, are as follows:—

The applicant is working as Driver with M/s. Kadamba Transport Corporation Ltd., i.e. the opponent at Panaji depot. He is drawing gross salary of Rs. 6008/- per month. He stood as a surety for loan obtained by one Anil Dessai from Goa State Co-operative Bank, Sanvordem branch (in short "the said bank"). The borrower, Anil Dessai committed default in making repayment of the loan. Therefore the said bank by its order bearing No. 15/9/83/ARSZ/Exe-115/97/103 directed the opponent/employer to deduct Rs. 225/- from monthly salary of the applicant. By subsequent order bearing No. 15/9/83

ARSZ/Exe-115/99/47 dated 15-11-1999 the said bank directed the opponent/employer to deduct from the applicant's monthly salary a sum of Rs. 500/-. In pursuance to these order installments @ Rs. 225/- per month and @ Rs. 500/- per month came to be deducted from the applicant's salary from the month of November, 1994 and from the month of March, 2000 respectively. The opponent/employer in all deducted 40 installments which are beyond the period of 24 months provided in Section 60 of Civil Procedure Code. The deductions which are beyond the period of 24 months are illegal. The applicant claims that he is entitled to refund of the installments which are paid @ Rs. 225/- per month, for the months of January, 2000 and February, 2000 and which are @ Rs. 500/- per month for the period from March, 2000 till the month of May, 2001. Total deductions during this period from the month of January, 2000 till the month of May, 2001 are amounting to Rs. 6450/-. He prayed for refund of this amount with interest @ Rs. 12% p.a. from the date of payment till realization from the opponent/employer by filing this application on 22-5-2001.

2. The opponent/employer resisted the application by filing its written statement on 5-11-2001 at Exb. 3. It appears from written statement that the deductions made @ Rs. 225/- per month and thereafter @ Rs. 500/- per month from monthly salary of the applicant are in pursuance of orders dated 9-6-1997 and dated 15-11-1999 received from the Recovery Officer and Assistant Registrar of Co-operative Societies, South Zone, Margao. All the deductions are transmitted to the said bank. The deductions are neither utilized by the opponent/employer nor those are for its personal gain. Further, according to the opponent/employer, the application is not maintainable under Section 33-C(2) of the said Act, 1947. Therefore it has entreated for dismissal of the application with cost.

3. The then, Learned Presiding Officer framed issues at Exb. 4 on 22-11-2001 and then additional issues at Exb. 10 on 18-10-2004. The issues are recast by me at Exb. 11. The recast issues are as follows:—

1. Whether the deductions of installments amounting to Rs. 6450/- are illegal ?
2. Whether the application filed under Section 33 C(2) of the Industrial Disputes Act, 1947, is maintainable ?
3. Whether the applicant is entitled to recover the amount of Rs. 6450/- ?
4. Whether the applicant is entitled to interest ? If yes, at what rate ?
5. What Order ?

4. My findings on the issues are as follows:

Issue No. 1: In affirmative

Issue No. 2: In affirmative

Issue No. 3: In affirmative

Issue No. 4: In affirmative @Rs. 6% p.a.

Issue No. 5: The application granted.

5. *Issue No. 1:* Admittedly the applicant is working as a Driver with the opponent/employer. He stood as a surety for loan obtained by one Anil Dessai from the said bank. The borrower Anil Dessai did not make repayment of the loan.

6. Evidence of the applicant which is at Exb. 6 shows that since the borrower Anil Dessai did not make repayment of the loan, an amount of Rs. 255/- per month was being deducted from his monthly salary from the month of November, 1997. It was till the month of February, 2000. Thereafter an amount of Rs. 500/- per month was being deducted from his monthly salary during period from the month of March, 2000 till the month of June, 2001. The opponent/employer deducted in all 40 installments from his monthly salaries which are beyond period of 24 months.

7. Shri Yeshwant Gaude who is examined on behalf of the opponent/employer at Exb. 7 pointed out that deductions @ Rs. 225/- per month and @ Rs. 500/- per month from monthly salary of the applicant are as per orders dated 1-6-1997 and 15-11-1999 received from the Assistant Registrar for Co-operative Societies, South Zone, Margao. All these deductions are transmitted to the said bank.

8. Xerox copy of order dated 9-6-1997 produced at Exb. O-1 makes it clear that the said Anil Dessai obtained loan from the said bank, that by passing Award the said Anil Dessai and the applicant, being surety, are held jointly and severally liable to make repayment of the dues to the said bank and therefore the Recovery Officer and Assistant Registrar of Co-operative Societies, South Zone, Margao by passing the order directed the opponent/employer to deduct a sum of Rs. 225/- per month from monthly salaries of the applicant. The first installment was directed to be deducted out of the salary payable to the applicant for the month of June, 1997. This order is subject to the provisions of Section 60 of Civil Procedure Code.

9. There is another order by the Recovery Officer and Assistant Registrar for Co-operative Societies, South Zone, Margao of which xerox copy is at Exb. O-2. This order is dated 15-11-1997. By this order the earlier order dated 9-6-1999 is modified and the opponent/employer is directed to deduct sum of Rs. 500/- from applicant's monthly salary. The first installment @Rs. 500/- per month was directed to be deducted out of the salary payable to the applicant for the month of December, 1999.

10. In compliance to the orders referred to above and which are passed by the Recovery Officer and Assistant Registrar for Co-operative Societies, South Zone, Margao, the opponent/employer has deducted the installments @Rs. 225/- per month and then @ Rs. 500/-

per month from the applicant's monthly salaries. The applicant has produced extract of the loan accounts maintained in the name of Anil Dessai by the said bank. Generally, every month barring few exceptions, amounts are deposited in the name of the borrower Anil Dessai. It is not made clear especially by the applicant as to by whom the amounts which are shown as deposits, are paid. However, if evidence applicant is read together with the orders passed by the Recovery Officer and Assistant Registrar for Co-operative Societies, and the directions contained in the said orders, it clearly reveals that the amounts which are deposited @ Rs. 225/- per month during the period from November, 1997 till the month of February, 2000 and @ Rs. 500/- per month during the period from March, 2000 to July, 2001 are those which are deducted from monthly salaries of the applicant. Total period from the month of November, 1997 till the month of July, 2001 comes to 45 months. Initial period of 24 months is from the month of November, 1997 till the month of October, 1999. The installments which are deducted from the month of November, 1999 till the month of July, 2001 are beyond the period of 24 months. Deductions for the month of November, 1999 till the month of February, 2000 are @ Rs. 225/- per month. This period is of 4 months. Total @ Rs. 225/- for the period for 4 months comes to Rs. 900/-.

11. Extract of the loan accounts (Exb. A-2) shows that 11 installments @ Rs. 500/- are deposited during the period from the month of March, 2000 till the month of July, 2001. Total deductions @ Rs. 500/- comes to Rs. 5,500/-, during this period from the month of March, 2000 till the month of July, 2001. If this amount of Rs. 5,500/- is added in that of earlier Rs. 900/- total comes to Rs. 6450/-. This is the total amount which is beyond period of 24 months starting from the first installments @ Rs. 225/- per month. I agree with the submissions advanced by Learned advocate of the applicant in this regard.

12. Now it has to be seen as to whether deductions of installments coming to total of Rs. 6450/- by the opponent/employer can be said to be illegal as claimed by the applicant. Section 60 of Civil Procedure Code of which reference is made in order dated 9-6-1997 by the Recovery Officer and Assistant Registrar for Co-operative Societies, South Zone, Margao and which is also pressed into service by Learned advocate of the applicant is in respect of property liable to attachment in execution of decree. Section 60 1 (i) lays down that salary to the extent of the first four hundred rupees and two third remainder in execution of any decree other than a decree for maintenance shall not be liable to such attachment or sale. This section further lays down that

"provided that where any part of such portion of the salary as is liable to attachment has been under attachment whether continuously or intermittently for a total period of twenty-four months, such portion shall be exempt from attachment until the

expiry of a further period of twelve months, and where such attachment has been made in execution of one and the same decree shall after the attachment has continued for a total period of twenty-four months, be finally exempt from attachment in execution of that decree".

13. On basis of the above provision it can safely be said that attachment of salary beyond period of twenty-four months is not permissible. In present case the Recovery Officer and Assistant Registrar for Co-operative Societies in his order dated 9-6-1997 had directed the employer i.e. the opponent to make deductions subject to provisions contained in Section 60 of Civil Procedure Code. Drawing and Disbursing Officer of the opponent did not take into consideration this provision as rightly pointed out by learned advocate of the applicant.

14. Reliance is placed by Learned advocate of the applicant on decision given by Division Bench of the Hon'ble High Court of Bombay at Goa in case of Goa Urban Co-operative Bank Ltd., Panaji. Petitioner V/s Mercedes English High School Mercedes and others, Respondents, reported in AIR 1999 Bombay 424, catchwords of decision are as follows.

Maharashtra Co-operative Societies Act (24 of 1961), S.156-Maharashtra Co-operative Societies Rules (1962), R.104(6) (as applicable to Goa)-Validity-Recovery of loan-Attachment of salary beyond 24 months-Not permissible-Challenge to vires of R.104(6) vis-à-vis S.156 is not maintainable.

15. In the above reported case, petitioner society had granted a loan of an amount of Rs. 25000/- to the respondent No. 1 who is member of the said society. Respondent No. 2 to 7 who are also the members of the said societies, stood as sureties for the repayment of the said loan. Respondent, No. 1 failed to pay the amount and the matter was referred to the Registrar's Nominee. The nominee by his judgment dated 18-1-1984 passed an order against respondents No. 1 to 7 for the repayment of Rs. 41,792.61 paise as on 18-1-1984 together with interest @ Rs. 20% p.a. from 1-10-1983 till final payment of the amount besides cost of Rs. 170/-. Petitioner thereafter had to seek execution and in this proceedings, salaries of respondents No. 3, 4, and 7 were sought to be attached. The orders for attachment of salary of the said respondents were passed by respondent No. 8. Respondents No. 4 by letter dated 10-7-1990 addressed to respondent No. 8 submitted that 28 monthly installments from his salary had already been deducted and in view of Section 60 of Civil Procedure Code, salary beyond a period of 24 months, could not be attached. The petitioner objected to this letter and contended that the provision of Section 60 of Civil Procedure Code could not be applied. Similarly the respondent No. 7 also addressed letter dated 13-5-1990 requesting that no deductions should be made after 24 monthly installments. It appears that in case of respondent No. 3 even in spite of the order of attachment, his salary was not attached. In view of the said letters of respondents

No. 4 and 7, no further attachment of the salary was effected. Petitioner claimed that loans have been granted to large number of its members and if the salary beyond 24 monthly installments is not attached, it would cause immense loss to the petitioner.

16. Facts of the above reported case expect those relating to the stand taken by the petitioner society are similar to that of the present one. I, therefore, hold that, decision relied upon by the learned advocate of the applicant is squarely applicable.

17. The Personal Manager who argued the matter on behalf of the opponent/employer submitted that the opponent/employer made the deductions as per orders passed by the said Recovery Officer and Assistant Registrar for Co-operative Societies. What is done by the opponent/employer is in compliance to the said orders. Therefore, according to him, it cannot be said that the deductions of installments which are beyond period of 24 months are illegal. The opponent/employer did not follow the provisions contained in Section 60 of Civil Procedure Code and of which reference is made by the said Recovery Officer and the Registrar for Co-operative Societies in his order dated 9-6-1997. Therefore it cannot be said that what is done by the opponent/employer is in compliance with orders received from the said Recovery Officer and Assistant Registrar for Co-operative Societies. I do not agree with the submissions made by the Personal Manager. Considering provisions contained in Section 60 of Civil Procedure Code, and relying upon the decision given by the Hon'ble High Court of Bombay at Goa, alluded supra, I hold that deductions of the installments amounting to Rs. 6450/- which are beyond the period of 24 months starting from the first installments of Rs. 225/- per month are against said provisions and therefore such deductions are illegal. My answer to the issue is in affirmative.

18. *Issues No. 2 to 4:* The application is filed under Section 33-C(2) of the said Act, 1947. Relevant portion of this Section is reproduced as follows:

Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government within period not exceeding three months.

19. "Money due" means money which has been ascertained and which has become payable. The Personal Manager of the opponent/employer tried to explain in his argument that the opponent/employer has merely deducted installments from monthly

salary of the applicant and sent the installments to the said bank. It cannot be said that there were dues payable by the opponent/employer to the applicant. Therefore, in his opinion, the applicant is not entitled to refund of the installments amounting to Rs. 6450/-, and as such the application in hand is not maintainable.

20. It is proved that the opponent/employer has illegally deducted installment amounting to Rs. 6450/- from monthly salaries of the applicant. The amounts which are illegally deducted must be restored with the employee from whose monthly salaries the same are deducted. I, therefore, hold that the applicant is entitled to recover with interest the total deductions amounting to Rs. 6450/- from the opponent/employer by presenting application under Section 33-C(2) of the said Act, 1947. My answer to the issue is in affirmative.

21. So far the question of rate of interest is concerned the applicant in the application has claimed it at Rs. 12% p.a. from the date of making payment till realization. He did not lead evidence in support of the claim of the interest. Taking into consideration the fact that the opponent/employer has illegally deducted the installments coming to total of Rs. 6450/- and also fall in rate of interest, I hold that it will be appropriate if the interest is awarded @ Rs. 6% from the date of institution of the application till realization.

As a result, of findings given to the issues No. 2 to 4. I hold that the application will have to be granted. Before parting with the matter it is necessary to make clear that the installments which are deducted from the monthly salaries of the applicant are transmitted by the opponent/employer to the said bank. Granting of the application will enable the applicant to get refund of the installments of Rs. 6450/-. The opponent/employer is at liberty to avail appropriate remedy if it is provided by law against the said bank in respect of Rs. 6450/- credited by way of installments from monthly salaries of the applicant. With this I pass following order.

ORDER

1. The application is granted.
2. The opponent/employer do refund to the applicant an amount of Rs. 6450/- (Rupees Six thousand four hundred fifty only) with future interest @Rs. 6% p.a. from the date of institution of the application till the full payment.
3. The opponent/employer do pray to the applicant, costs of this application and do bear its own.

Sd/-
(Dilip K. Gaikwad),
Presiding Officer
Industrial Tribunal-cum-
-Labour Court-I.

Department of Personnel

Order

No. 6/2/2002-PER(Part)

Read: Order No. 6/2/2002-PER(Part) dated 30-5-2007.

In pursuance of letter No. 5-10-2006/ELEC/2890 dated 01-06-2007 from the Chief Electoral Officer, Altinho, Panaji-Goa, Order No. 6/2/2002-PER(Part) dated 30-5-2007, hereby stands rescinded with immediate effect.

Yetindra M. Maralkar, Joint Secretary (Personnel).

Porvorim, 1st June, 2007.

Department of Public Health

Order

No. 2/44/98-II/PHD/354

Read:- 1) Order No. 2/44/98-II/PHD/354 dated 12-01-2004.

2) Order No. 2/44/98-II/PHD/354 dated 04-07-2006.

Government is pleased to sanction grant of extension of Extraordinary leave to Dr. Gokuldas Gaude, Assistant Lecturer in P. S. M. in Goa Medical College for a further period of two years w.e.f. 01-03-2007 to 28-02-2009 in terms of Government Notification No. 2/5/95-PER dated 02-01-2003.

By order and in the name of the Governor of Goa.

S. G. Korgaokar, Under Secretary (Health).

Porvorim, 30th May, 2007.

Order

No. 21/3/98-I/PHD/1881

Government is pleased to accept the resignation of Dr. Maria Luiza Silveira, Medical Officer under Directorate of Health Services tendered vide her application dated 11-4-2007 from the post of Medical Officer under Directorate of Health Services w.e.f. 20-4-2007 (F.N.) and she stands relieved from Government Service with effect from that date.

By order and in the name of the Governor of Goa.

Jessie Freitas, Under Secretary (Health-II).

Porvorim, 7th June, 2007.

Department of Public Works

Office of the Principal Chief Engineer

Amendment

No. 14-17-98-PCE-PWD-EO/49

Read:- 1) Order No. 14-17-PCE-PWD-EO/148 dated 22-09-2005.

2) Memorandum No. 14-17-98-PCE-PWD-EO/186 dated 22-12-2006.

3) Amendment No. 14-17-98-PCE-PWD-EO/272 dated 19-02-2007.

The Memorandum referred to at (2) above, is hereby partially modified to designate the Land Acquisition Officer, PWD (Cell), Altinho, Panaji, Goa, as Assistant State Public Information Officer (A.S.P.I.O.) to perform functions as prescribed under Section 5(2) of "Right to Information Act" in respect of Land Acquisition cases of P.W.D.

A. M. Wachasundar, Offtg. Principal Chief Engineer, PWD & ex officio Addl. Secretary.

Panaji, 4th June, 2007.